

Penalty Waiver Policy

I. Overview

Chapter 105 of the North Carolina General Statutes require the North Carolina Department of Revenue (Department) to impose certain civil penalties on taxpayers who do not comply with the tax statutes and gives the Secretary of Revenue (Secretary) the authority to waive or reduce these penalties.

This document contains the policy of the Department with respect to the Secretary of Revenue's (Secretary's) authority to waive or reduce civil penalties. This policy applies to requests for waiver of civil penalties considered by the Department on or after July 8, 2025, and supersedes all prior documents.

Note. A request to waive a penalty is not a request for review. A taxpayer who objects to the application of a penalty must file a written request for Departmental review within 45 days after the date of the proposed assessment or proposed denial of refund.

II. Core Penalties

North Carolina (State) law requires the Department to assess civil penalties for noncompliance with the State's tax laws. The civil penalties most often assessed by the Department are considered "Core Penalties." The following chart lists the Core Penalties, the [statutes](#) that impose these penalties, and the rates of these penalties.

Core Penalty	General Statute	Penalty Rate
Failure to File (FTF)	105-236(a)(3)	5% of the net tax due ¹ each full or partial month late, with maximum of 25% of tax
Failure to Pay (FTP)	105-236(a)(4)	5% of tax shown due on return but not timely paid
Negligence	105-236(a)(5)a	10% of deficiency
Large Tax Deficiency for Individual Income Tax	105-236(a)(5)b	25% of deficiency
Large Tax Deficiency for Taxes Other Than Individual Income Tax	105-236(a)(5)c	25% of deficiency

¹ Net tax due is the amount of tax required to be shown on the return less any timely payments of the tax and allowable credits.

Failure to File an Informational Return	105-236(a)(10)c	\$50 per day with a maximum of \$1000
Failure to File an Informational Return in the Format Prescribed	105-236(a)(10)d	\$200

III. *Types of Penalty Waivers*

There are three types of penalty waivers under this policy:

- Good Compliance
- Automatic
- Special Circumstances

1. Good Compliance Waiver

A good compliance waiver allows every taxpayer one penalty waiver for every tax type every three years.

A good compliance waiver provides relief from qualifying penalties with certain restrictions. The restrictions are as follows:

- Non-Recurring Intervals - A good compliance waiver cannot be granted if the penalty was imposed on a tax that is not reported to the Department at regular, recurring intervals.
- Trust Tax - A good compliance waiver cannot be granted for an FTP penalty that was imposed for a tax that was collected or withheld and held in trust (e.g., sales tax and withholding) but not remitted to the Department.

The following chart lists penalties that may qualify for good compliance waiver. If a penalty is not listed on the chart, it is not eligible for a good compliance waiver.

Penalty	General Statute
Making Payment in Wrong Form	105-236(a)(1b)
Failure to Obtain a License	105-236(a)(2)
Failure to File	105-236(a)(3)
Failure to Pay	105-236(a)(4)

Negligence	105-236(a)(5)a
Large Tax Deficiency for Individual Income Tax	105-236(a)(5)b
Large Tax Deficiency for Taxes Other Than Individual Income Tax	105-236(a)(5)c
Road Tax Understatement	105-236(a)(5b)
Failure to File an Informational Return	105-236(a)(10)c
Failure to File a Motor Carrier Return	105-449.45(d)
Failure to Carry a License, Failure to Display a Lawfully Obtained Decal, Failure to Account for a Decal, or Displaying an Unlawfully Obtained Decal	105-449.52(a)

To qualify for a good compliance waiver, a taxpayer must show that it meets all the following conditions:

- **No Missing Tax Returns.** A taxpayer must have filed all required State tax returns or reports due.
- **No Taxes Due Other Than Waivable Penalty.** For the period for which a waiver is requested, a taxpayer must pay any tax and interest due, as well as any penalty that is not waivable for that period. In addition, a taxpayer must pay all taxes collectible for all other tax periods for all tax types. See G.S. 105-241.22. **Note.** If a taxpayer requests a penalty waiver as part of a Departmental review, the taxpayer must pay any tax and interest due, as well as any penalty that is not waivable for the review period.
- **Not Same Mistake.** A taxpayer must show that the error or practice that caused the penalty is not the same or similar to an error or practice previously committed by the taxpayer. However, the Department will not treat filing or paying late as a similar mistake for purposes of this condition.
- **Provided All Requested Documentation.** A taxpayer must provide the Department all needed information with respect to the tax liability for which the penalty was assessed.

Note. The taxpayer must be allowed 30 days to respond to documented contact by Department personnel before denying the waiver of penalties based on this

reason. Failure by a taxpayer to respond to a request for information by the Department must be documented by the Department. In the case of an audit, the auditor must inform the taxpayer in writing that the taxpayer did not provide all documentation and that the file is being so noted.

- **No Prior Good Compliance Waiver.** The taxpayer did not receive a good compliance waiver for the same tax type² in the past three years (the “look-back” period). A penalty that was assessed in error, waived automatically, or waived for special circumstances does not count as a prior waiver for the look-back period.

Except as noted below, the look-back period is the three-year period that begins on the date the Department reviews the request for waiver and ends three years prior to that date.

1. Closed Business. If a taxpayer is no longer in business, the look-back period is the final three years the taxpayer was subject to North Carolina tax. In this circumstance, the look-back period begins on the due date of the last tax return the taxpayer was required to file in North Carolina and ends three years from that date.

Example:

On June 30, 2025, Corporation XYZ, a retail business incorporated in North Carolina, files for dissolution and goes out of business. Prior to its dissolution, Corporation XYZ was required to file sales and use tax returns (Form E-500) monthly. On December 15, 2025, Corporation XYZ filed Form E-500 for the month ended May 31, 2024, and paid the tax shown due on the return. (The return was due to be filed on June 20, 2024.)

On February 1, 2026, the Department sent Corporation XYZ a notice of collection for unpaid interest and applicable penalties. On March 1, 2025, Corporation XYZ paid the interest and requested a penalty waiver based on good compliance. On April 1, 2025, the Department evaluated Corporation XYZ’s request for penalty relief.

Because Corporation XYZ is no longer in business the look-back period for Corporation XYZ begins on July 30, 2024 (not April 1, 2025).

² For purposes of this policy, franchise tax and corporate income tax are considered one tax type. Likewise, State, local, and transit sales and use taxes are considered one tax type. In addition, a taxpayer with multiple sales and use tax or withholding tax registrations is only allowed one good compliance waiver per tax type during a three-year period.

2. Withholding. A good compliance waiver granted for failure to timely file an informational return, i.e., Form NC-3, does not count against a taxpayer for purposes of determining good compliance for other withholding returns and payments (e.g. Form NC-5, Form NC-5Q, and Form NC-5P). Moreover, a good compliance waiver for other withholding returns or payments does not count against a taxpayer for purposes of determining a good compliance waiver for failure to timely file Form NC-3.

Example:

On July 15, 2023, Company ABC filed a fully paid withholding return (Form NC-5). The due date of the return was April 30, 2023. Company ABC was assessed failure to file (FTF) and failure to pay (FTP) penalties. Company ABC paid the interest and FTP penalty and requested a penalty waiver for FTF penalty based on good compliance. On August 1, 2023, the Department approved a good compliance waiver and waived the FTF penalty for Form NC-5.

On March 1, 2024, Company ABC filed an annual withholding reconciliation return (Form NC-3). The due date of the return was January 31, 2024. On April 15, 2024, Company ABC was assessed a penalty for failure to timely file an informational return. On April 30, 2024, Company ABC requested penalty relief.

Because the August 1, 2023, good compliance waiver for Form NC-5 does not count as a prior waiver when determining good compliance for failure to timely file Form NC-3, the Department approved the request and waived the penalty.

2. Automatic Waiver

The Department has three reasons for an automatic waiver. The reason for the automatic waiver must have prevented the taxpayer's compliance with the law for the taxpayer to qualify for the automatic waiver. For example, a natural disaster is unlikely to have caused a person to be assessed the misuse of an exemption certificate penalty and this penalty would not ordinarily be automatically waived.

Note. A taxpayer's standing with the Department does not impact whether the taxpayer qualifies for an automatic waiver. A taxpayer's standing means whether the taxpayer is current with State tax obligations and the taxpayer's history of penalty waivers.

The following chart lists the reasons for automatic waiver and applies to the returns and payments due within the automatic waiver period.

Reason	Description	Waiver Period – Returns and Payments Due Within
Death	Death of: (1) taxpayer, (2) taxpayer's immediate family member, or (3) taxpayer's tax preparer	3 Months after the date of death
Serious and Sudden Illness	Serious or sudden illness of: (1) taxpayer, (2) taxpayer's immediate family member, or (3) taxpayer's tax preparer	3 Months after the date the illness began
Natural Disaster	Natural disaster, such as a tornado or hurricane, or an accident, such as a fire, that destroyed the taxpayer's property, records, or both	For a disaster addressed in a memo from the Secretary or the Governor, the period set in the memo. For other qualifying events, 3 Months after the qualifying event.

For purposes of this policy, an immediate family member is any of the following:

- *A parent, a child, or a spouse. This applies whether or not the person lives in the same household as the taxpayer. A parent includes a stepparent. A child includes a stepchild, foster child, or adopted child.*
- *Any individual who lives in the same household as the taxpayer, regardless of whether the person is related to the taxpayer.*

To request an automatic waiver, a taxpayer must submit to the Department, [Form NC-5500](#), Request to Waive Penalties, [Form NC-5501](#), Request for Waiver of an Informational Return Penalty, or write a letter that contains the same information requested on Form NC-5500 or Form NC-5501. See [Request to Waive Penalties](#). If a taxpayer does not qualify for an automatic waiver, the Department will review the taxpayer's eligibility for a good compliance waiver. The Department will notify the taxpayer of the Department's decision.

Examples:

- **Death.** Jane Doe operates a business in North Carolina and is required to file monthly withholding tax returns. On August 1, 2024, Jane Doe's spouse passed away. On October 15, 2024, Jane filed and paid the business' July 2024 withholding return due on August 15, 2024. The business was assessed failure to file (FTF) and failure to pay (FTP) penalties. Jane Doe requested a penalty waiver because of the death of her spouse. Jane provided evidence of the death and its impact on her ability to file the return.

The Department approved the automatic penalty waiver of the FTF and FTP penalties assessed for the withholding tax return for July 2024.

- **Serious and Sudden Illness.** Mr. Smith operates a business in North Carolina and is required to file monthly sales and use tax returns. From February 1 through March 23, 2025, Mr. Smith's spouse, who normally files the sales and use tax returns, was hospitalized several times for sudden illness. The first hospitalization occurred on February 1, 2025.

At the end of April 2025, Mr. Smith discovered that the business failed to file sales and use tax returns for the months of January and February. On May 5, 2025, Mr. Smith filed the January and February returns and paid the taxes due. The business was assessed failure to file (FTF) and failure to pay (FTP) penalties. Mr. Smith requested a penalty waiver. Mr. Smith provided evidence of his spouse's illness and the impact it had on the business' ability to file the returns.

The Department approved the automatic penalty waiver of the FTF and FTP penalties assessed for the sales and use tax returns for January and February 2025.

- **Natural Disaster.** Company ABC operates a business in North Carolina and is required to file quarterly sales and use tax returns. On February 1, 2025, a fire occurred and destroyed the sales records of Company ABC. On August 1, 2025, Company ABC filed its sales and use tax return for the quarter ending March 31, 2025, and paid the taxes due. The business was assessed failure to file (FTF) and failure to pay (FTP) penalties. Company ABC requested a penalty waiver. Company ABC provided evidence of the fire on February 1, 2025, and the impact it had on the business' ability to file the returns.

The Department approved the automatic penalty waiver for the FTF and FTP penalties assessed for the sales and use tax returns for the first quarter of 2025.

3. Special Circumstances Waiver

The Department allows a special circumstances penalty waiver in limited situations. The special circumstances waiver may apply to all civil penalties. Generally, a special circumstances waiver is granted on a case-by-case basis after consideration of all the facts and circumstances.

Waiver of a penalty based on special circumstances is the exception rather than the rule. If a taxpayer does not receive a special circumstances waiver, the Department will review a taxpayer's eligibility for a good compliance waiver.

Example:

Company ABC's computers were hacked. ABC could not access its tax records for three months because of the hack. Once recovered, ABC filed and paid its sales and use tax and its withholding tax late. The Department assessed Company ABC failure to file (FTF) and failure to pay (FTP) penalties. Company ABC requested a special circumstances waiver based on the hack and supplied documentation about the impact of the hack on its State tax filing requirements.

The Department reviewed all the facts and circumstances. The Department approved the special circumstances waiver for the FTF and FTP penalties assessed for the sales and use tax returns and the withholding tax returns for the applicable periods.

IV. Penalties Grouped Together for Good Compliance

Generally, the Department groups penalties for the same filing period and tax type together as a single good compliance waiver. For purposes of this policy, except as noted below, the filing period for a tax type is the period covered by a return or payment, whichever is shorter.

Example:

An individual income taxpayer is assessed the failure to file (FTF), failure to pay (FTP), and the large deficiency penalty (LDP) for tax year 2024. The taxpayer requests a penalty waiver.

Upon review, the Department determines the individual qualifies for a good compliance waiver. The Department waives the FTF, FTP, and LDP penalties. The waiver counts as one waiver for purposes of the taxpayer's good compliance history.

Exceptions.

a. Multi-Period Audits

The Department groups penalties assessed in an audit for each tax type³ as a single good compliance waiver.

Example:

The Department conducted a 36-month audit of Shop Inc. The Department assessed Shop Inc additional state, local, and transit sales and use tax for the 36-month period. The Department also assessed corporate income tax for tax years 2021, 2022, and 2023. The assessment included the 25% large tax deficiency penalty ("LDP"). Shop Inc requested a good compliance waiver.

The Department reviewed the request for waiver of the state, local, and transit sales and use tax penalty for all 36 months as a single waiver request. Shop Inc. had not received a waiver for any state, local, or transit sales and use tax in the three years prior to this request. As a result, the Department waived the LDP for all the state, local, and transit sales and use taxes.

The Department also reviewed the request for waiver of the corporate income tax LDP for all three tax years as a single waiver request. Shop Inc. received a good compliance penalty waiver of a corporate income tax penalty two years prior to this request. As a result, the Department denied the waiver request for the corporate income tax LDP.

b. Multiple Tax Returns Filed At The Same Time

The Department groups penalties assessed on multiple tax returns filed at the same time for the same tax type as a single good compliance waiver. This exception **does not** apply to a tax period if the Department has previously assessed the taxpayer for the tax period.

Example 1:

The Department received information from the Internal Revenue Service (IRS) that indicated that John Smith should have filed a North Carolina Individual Income Tax Return ("State Tax Return") for tax year 2019. On July 1, 2023, the Department sent John Smith a notice of individual income tax assessment (Assessment) for tax year

³ For purposes of this policy, franchise tax and corporate income tax are considered one tax type. In addition, State, local, and transit sales and use taxes are considered one tax type.

2019, which included tax, penalty, and interest. The Assessment was based on the best information available to the Department.

On October 15, 2023, John Smith filed State Tax Returns for tax years 2019 through 2022. John Smith paid the tax and accrued interest shown due on each of the State Tax Returns and requested a good compliance waiver for the assessed penalties.

The Department reviewed the request for waiver for tax years 2019 through 2022 as a single waiver request. John Smith had not previously received a good compliance waiver for individual income tax. Because John Smith received an Assessment for tax year 2019, John Smith is not eligible to group the penalty waiver request for tax year 2019 with the penalty waiver request for tax years 2020 through 2022. John Smith can, however, receive a good compliance penalty waiver for tax year 2019 or a good compliance waiver for tax years 2020 through 2022, but not both.

Example 2:

On October 15, 2019, Jane Smith filed a North Carolina Individual Income Tax Return ("State Tax Return") for tax year 2018. Jane paid the tax, interest, and the failure to pay (FTP) penalty shown due on the return. Jane did not request a good compliance waiver for the assessed penalty.

On October 15, 2023, Jane Smith filed State Tax Returns for tax years 2019 through 2022. Jane Smith paid the tax and accrued interest shown due on each of the State Tax Returns and requested a good compliance waiver for the assessed penalties. On her penalty relief request, Jane also requested a waiver of the FTP penalty previously paid on the 2018 State Tax Return.

The Department reviewed the request for waiver for tax years 2018 through 2022 as a single waiver request. Jane Smith had not previously received a good compliance waiver for individual income tax. Because Jane Smith previously filed a State Tax Return for tax year 2018, Jane Smith is not eligible to group the penalty waiver request for tax year 2018 with the penalty waiver request for tax years 2019 through 2022. Jane Smith can, however, receive a good compliance penalty waiver for tax year 2018 [within the statute of limitations for refunds](#) or a good compliance waiver for tax years 2019 through 2022, but not both.

V. How to Request a Penalty Waiver

A taxpayer may request a penalty waiver in any of the following ways:

- 1. Submit a Form** - Submit one of the following forms:

- [Form NC-5500](#), Request to Waive Penalties
- [Form NC-5501](#), Request for Waiver of an Informational Return Penalty

Form NC-5500 and Form NC-5501 are available on the [Department's website](#) and can be submitted electronically or by paper. Mail paper requests to the address listed on the Form.

2. **Contact the Department** - A [good compliance waiver](#) can be requested by [calling the Department](#) or by visiting a [Service Center](#). Except as noted below, a taxpayer that wishes to request an [automatic waiver](#) or a [special circumstances waiver](#) must submit the request in writing.

Exception. The Department may waive the requirement to submit an [automatic waiver](#) or a [special circumstances waiver](#) request in writing by published notice.

3. **Write a letter** - If a taxpayer chooses to write a letter requesting a penalty waiver, the letter must contain the same information requested on Form NC-5500 or Form NC-5501. Mail the letter to the address listed on Form NC-5500 or Form NC-5501.

Important. Only the taxpayer or the taxpayer's authorized power of attorney can request a penalty waiver. An authorized power of attorney must have submitted a valid [power of attorney](#) to the Department.

VI. Grant or Denial of Request to Waive Penalties

The Department will notify the taxpayer of its decision to approve or deny a taxpayer's penalty waiver request. If the Department grants the request, the Department will inform the taxpayer of the action either through an amended assessment notice, refund with explanation, or a letter. Except as noted below, if the Department denies the request, the Department will send the taxpayer a letter of denial.

Exception. A request for a good compliance waiver made by calling or visiting the Department may be granted or denied during the call or visit. If the request is denied during the call or visit, the Department will not send the taxpayer a letter of denial.

Request for Reconsideration. If the Department denies a request to waive a penalty, a taxpayer may request the Department reconsider the denial. A request for reconsideration must be filed with the Department within 30 calendar days of the date of denial, must be in writing, and must explain why the taxpayer's request to waive penalty should have been granted. A request for reconsideration of a denied penalty waiver **is not** a request for

Departmental review.⁴ Therefore, the request for reconsideration does not extend the time to file a request a Departmental review.

VII. Statute of Limitations for Refunds of Previously Paid Penalties

If a taxpayer requests a waiver of a penalty the taxpayer previously paid, the request must be made within the statute of limitations for refunds set forth in G.S. 105-241.6. Generally, the penalty waiver request must be made within the later of (1) three years after the due date of the return for which the penalty was assessed, or (2) two years after payment of the tax.

⁴ See [N.C. Gen. Stat. § 105-241.11](#).